

ARC 3315B

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code Supplement section 8A.104, the Department of Administrative Services gives Notice of Intended Action to adopt a new Chapter 111, “Disposal of State Personal Property,” Iowa Administrative Code.

This new chapter establishes procedures for inspecting, selecting, and removing personal property from state agencies or from state storage as well as procedures for the auction of vehicles and other items under the control of the director.

Public comments concerning the proposed rules will be accepted until 4:30 p.m. on May 18, 2004. Interested persons may submit written, oral or electronic comments by contacting Carol Stratemeyer, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; E-mail Carol.Stratemeyer@iowa.gov.

There will be a public hearing on May 18, 2004, at 11 a.m. in the Administrative Services Conference Room 04, Hoover State Office Building, Level A-South, at which time interested parties may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules. Persons with special needs may contact the Department of Administrative Services prior to the hearing if accommodations are needed.

These rules are intended to implement Iowa Code Supplement sections 8A.321(5), 8A.324, 8A.362(6), and 8A.365.

The following rules are proposed.

Adopt the following new chapter:

CHAPTER 111

DISPOSAL OF STATE PERSONAL PROPERTY

11—111.1(8A) Definitions.

“Agency” or “state agency” means a unit of state government, which is an authority, board, commission, committee, council, department, examining board, or independent agency as defined in Iowa Code section 7E.4, including but not limited to each principal central department enumerated in Iowa Code section 7E.5. However, “agency” or “state agency” does not mean any of the following:

1. The office of the governor or the office of an elective constitutional or statutory officer.
2. The general assembly or any office or unit under its administrative authority.
3. The judicial branch, as provided in Iowa Code section 602.1102.
4. A political subdivision of the state or its offices or units, including but not limited to a county, city, or community college.

“Auction” means a sale of property to the highest bidder. Auctions may be conducted electronically.

“Bid” means to offer a price to purchase an item.

“Bidder” means an individual who offers a price to purchase an item.

“Department” means the Iowa department of administrative services.

“Director” means the director of the Iowa department of administrative services or the director’s designee.

“Hazardous waste” means personal property that requires special handling and a special disposal fee based on state or federal regulations.

“Highest bidder” means an individual who offers the highest price to purchase an item.

“Personal property” means anything of value belonging to the state, other than real property, under the control of the director.

“Scrap” means equipment and supplies that are to be disposed of because they do not have sufficient value to justify preparing them for reuse or reprocessing.

“State surplus” means items of personal property that have value and are not scrap, such as equipment and supplies for which state agencies no longer have a business use.

“State surplus program” means the program authorized under Iowa Code chapter 8A for the director to dispose of unused state property.

“State vehicle” means any vehicle registered to the state of Iowa, department of administrative services.

“Successful bidder” means an individual who was awarded the sale of an item as the highest bidder.

“Surplus property staging area” means an area within each building on the capitol complex where surplus property, other than vehicles, is accumulated for pickup.

11—111.2(8A) Disposal of state surplus property. The director is responsible for inspecting, selecting and removing surplus personal property from state agencies or from state storage. The director shall dispose of all personal property of the state under the director’s control when it becomes unnecessary or unfit for further use by the state.

111.2(1) Means of disposal. The director may dispose of unfit or unnecessary personal property by auction or other method of sale, trade-in, salvage, or recycling or may properly and safely dispose of it by other means. Proceeds from the sale of personal property, except for vehicles and printing equipment or as otherwise provided by statute, shall be deposited in the general fund of the state.

111.2(2) Transfer. Personal property may be transferred between state agencies in lieu of other means of disposal.

111.2(3) Disposal agreement. If the director concludes that the personal property has little or no value, the director may enter into an agreement with a not-for-profit organization or governmental agency to dispose of the personal property. The department has an agreement with Iowa Prison Industries (IPI) to dispose of state surplus property.

111.2(4) Identifying items for disposal. State agencies or department staff may identify unused property within state office areas. Department staff shall determine whether the unused property is scrap or salvageable surplus property and assist the agency in the completion of the surplus disposal documents.

111.2(5) Request to remove surplus property. Requests from agencies to remove surplus property are processed through the department.

111.2(6) Removal of surplus property. State agencies or designated department staff may remove surplus property

from a building's office area on the capitol complex to the building's surplus property staging area.

111.2(7) IPI may charge the state agency in control of the surplus property with the cost of removing and transporting the property from outside the Des Moines area.

111.2(8) Title to the surplus property shall transfer to IPI when the property and the declaration form for the state surplus property are in the possession of IPI. When IPI adds value to the property transferred to it and sells the property, the proceeds from the sale shall be deposited with IPI and not in the general fund of the state.

111.2(9) Disposal of hazardous waste. When the director determines that personal property is contaminated, contains hazardous waste, or is hazardous waste, the state agency providing the property for disposal is responsible for the hazardous waste disposal fees.

111.2(10) The director may dispose of presses, printing equipment, printing supplies, and other machinery or equipment used in the printing operation pursuant to Iowa Code Supplement section 8A.341. The receipts from the sale of presses, printing equipment, printing supplies, and other machinery or equipment used in the printing operation shall be deposited in the printing revolving fund established in Iowa Code Supplement section 8A.345.

11—111.3(8A) Auction standards. Public auctions of state personal property under the control of the director shall be held in accordance with the standards set forth in this rule. Auctions may be conducted electronically.

111.3(1) Eligibility to bid. All bidders must register before making a bid. Bid numbers shall be available prior to and during the sale. All bidders must be 18 years of age or older to bid or purchase items at the auction.

111.3(2) Settlement of purchases. All sales are final. Final settlement may be made on the date of the sale, but must be completed by the date specified at the time of the sale. Removal of purchased items is at the expense of the successful bidder.

111.3(3) Guarantees and warranties. All items are sold to the highest bidder as is, with no guarantees or warranties.

111.3(4) Sales tax. Iowa sales tax and any applicable local option tax shall be collected at the auction, unless the item sold is a vehicle subject to registration.

111.3(5) Public property. Individuals tampering with or pilfering public property shall be subject to prosecution.

111.3(6) Office hours. Office hours for completing final settlement in person and taking possession of the purchased item are as specified in the terms and conditions of the sale.

111.3(7) Announcements. Any announcements, corrections or revisions of sale item descriptions or bid reservation policy announced by auction officials during the course of the sale shall take precedence over descriptions or bid reservations in printed materials.

111.3(8) Liability. The state does not accept any responsibility or liability for damages done to person or property once the successful bidder takes possession of the purchased item. If the item is damaged while still in the possession of the state, upon the request of the successful bidder the state shall return the bidder's payment and void the transaction. The state of Iowa, department of administrative services, the auctioneers, and their employees are not responsible for any accidents.

11—111.4(8A) State vehicle auctions.

111.4(1) Public auction—exceptions. All used motor vehicles turned in to the director shall be disposed of by public auction, with the following exceptions:

a. In the case of a used motor vehicle of special design, the director may, instead of selling the vehicle at public auction, authorize the trade of the vehicle for another vehicle of similar design.

b. If a motor vehicle sustains damage and the cost of repair exceeds the wholesale value of the vehicle, the director may dispose of the vehicle by obtaining two or more written salvage bids and selling the vehicle to the highest responsible bidder.

111.4(2) Advertisement of sales. A public auction of state vehicles under the control of the director shall be advertised in a newspaper of general circulation as defined in Iowa Code section 618.3, subsection 1, in the area of the sale one week in advance of the sale. Public auctions will also be advertised on the department's Web site.

111.4(3) Dates and times to examine vehicles. Prospective buyers may examine a vehicle, start the engine and operate accessories on an auction vehicle during times and dates specified in the terms and conditions of the sale, but are prohibited from over-revving the engine. Only those individuals aged 18 or older in possession of a valid operator's, chauffeur's, or commercial driver's license will be permitted to start engines and operate accessories of the auction vehicles. Under no condition will an individual other than personnel authorized by department move a vehicle from its sale position.

111.4(4) Bid deposit. A successful bidder must make a \$200 deposit to hold an item for final payment. The deposit must be in the form of cash, traveler's check, postal money order, cashier's check, or a certified check from a savings and loan, credit union, or bank for each vehicle or other item purchased, made payable or endorsable to the state of Iowa. Political subdivisions are the exception to this rule and may use either a requisition or purchase order in lieu of the deposit.

111.4(5) Personal checks. No personal or company checks will be accepted for any \$200 deposit or final settlement for the purchase of a vehicle, unless accompanied by a letter from the issuing financial institution guaranteeing the amount of the check.

111.4(6) Bid default. Bidders are cautioned to bid only on those items the bidder is prepared to pay for and remove in accordance with the terms and conditions of the sale. All items awarded the high bidder contractually belong to the high bidder and must be paid for and removed within the time period allowed by the terms and conditions of the sale. The successful bidder agrees that in the event the property is not paid for or removed within the prescribed period of time, the state of Iowa, at its election and upon notice of default, shall be entitled to retain or collect as liquidated damages a sum equal to the greater of either 20 percent of the total purchase price of the item on which the default has occurred or \$200 if the successful purchase price is less than \$1,000.

111.4(7) Settlement of vehicle purchases. Deposits may be forfeited if the balance due is not paid by the date specified at the time of the sale. A penalty of \$25 per workday per item will be assessed beginning at the close of business on the date specified at the time of the sale for any final settlement still owed to the state of Iowa. Payments must be received timely and in the terms specified in subrule 111.3(2). In the event that a final settlement is not concluded by the date specified at the time of the sale, deposits held against items sold will be forfeited to the state of Iowa.

111.4(8) Vehicle storage. Vehicles purchased at state auction may be stored on state of Iowa premises at no charge until the close of business on the date specified in the terms and

conditions of the sale. Vehicles remaining after that time and date will be assessed a \$25 per calendar day storage fee, which must be paid in full prior to release of vehicles and title documents.

111.4(9) Title transfer. Title transfer is made at the time of final settlement. Use tax for vehicles subject to registration will be paid by the successful bidder to the county treasurer at the time of application for a vehicle license. The director shall furnish an in-transit paper license plate to the successful bidder. Requests for duplicate titles will be processed for a fee of \$25 per title.

111.4(10) Window notations. Any mechanical defects or disrepair conditions that are determined by the director, or of which the director is made aware, are noted on the windshield of each vehicle. Obvious damage such as, but not limited to, body dents or rust perforation, tire wear, cracked windshields, or exhaust system deterioration may or may not be noted. Accident damage will be noted on the windshield if any single accident caused repairs in excess of \$1,500 while the vehicle was owned and operated by the state of Iowa.

111.4(11) Proceeds from the sale of state vehicles sold by the director shall be deposited in the depreciation fund to the credit of the state agency that purchased the vehicle.

These rules are intended to implement Iowa Code Supplement sections 8A.321(5), 8A.324, 8A.362(6), and 8A.365.